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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,266	02/13/2004	Robert A. Elick	EL1006-237	5425
173 7590 10/18/2007 WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085			EXAMINER STINSON, FRANKIE L	
			ART UNIT 1792	PAPER NUMBER
			MAIL DATE 10/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/777,266

Applicant(s)

ELICK

Examiner

FRANKIE L. STINSON

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-7,9-12 and 19-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Art Unit: 1792

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8 and 18 are is rejected under 35 U.S.C. 103(a) as being unpatentable over either Wilson et al. (U. S. Pat. No. 2,439,535) or Meeker et al. (U. S. Pat. No. 2,879,026) in view of Japan'984 (Japan 6-46984).

Re claims 1, 8 and 18, Wilson and Meeker are each cited disclosing in a dishwasher including a tub having bottom, opposing side, rear and top walls which collectively define a washing chamber (typical) adapted to receive and cleanse soiled kitchenware by spraying washing fluid onto the kitchenware from at least one wash spraying member, a pump (24 in Wilson and 56 in Meeker) assembly comprising:

a housing defining an intake chamber (32 in Wilson and 61 in Meeker) and a pumping chamber (as at 24 in Wilson and 68 in Meeker);

a pumping unit arranged in the pumping chamber, said pumping unit including an impeller for directing washing fluid to the wash spraying member;

a conduit (unnumbered in Wilson, see fig. 1 and 62 in Meeker,)

a filter chamber (31 in Wilson and 120 in Meeker) including a filtering screen (51 in Wilson and 125 in Meeker) for entrapping soil from the washing fluid in the filter chamber;

a drain (as at 32 in Wilson and 80 in Meeker) exposed to the filter chamber; and a valve (flapper valve 32 in Wilson and 85 in Meeker) operatively positioned between the

washing chamber, the filter chamber and the drain for regulating flow to the drain from each of the filter and washing chambers with the washing fluid in the chamber being permitted to flow to the drain through the valve while bypassing the intake pump and;

a collection chamber that differs from the claim only in the recitation of the drain pump and the seal at the filter chamber and that also differs from the claim only in the recitation of the wash arm with respect to the disclosure of Wilson, and the flapper valve with respect to the disclosure of Meeker. Nonetheless, Japan'984 discloses the flapper valve (15) as claimed. It therefore would have been obvious to one having ordinary skill in the art to modify the valve in Meeker, to include a flapper valve as taught by Japan'984, since this is considered to be a mere substitution of equivalents. It is of little patentable significance to employ a wash arm versus the spraying arrangement of Wilson, Nonetheless, Japan'984 also discloses the spray arm as claimed. As for the valve being a flapper valve versus the solenoid-actuated valve in Meeker. The features are deemed to be the functional equivalent of each other (see MPEP 2144.06 SUBSTITUTING EQUIVALENTS KNOWN FOR THE SAME PURPOSE). As for the drain pump, Japan'984 also discloses the drain pump (11). It therefore would have been obvious to one having ordinary skill in the art to modify the arrangement of either Wilson or Meeker, for the purpose of positively removing the spent washing fluid. As for the seal, the same is deemed to be inherent valving members

4. Claims 2-7, 9-11 and 19-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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FRANKIE L. STINSON
Primary Examiner
GROUP ART UNIT 1792